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SUBJECT: LESOTHO: CHILD LABOR AND FORCED LABOR REPORT

REF: STATE 131997

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Summary

¶1. Lesotho does not consider itself to have a problem with forced labor or exploitive child labor. The Ministry of Labour and Employment states that there is no child labor within the formal sectors. Forced labor or exploitive child labor is known to occur in the informal sector and does not occur in production of goods, but rather in provision of services such as commercial sex work, herding, domestic work and street vending. The informal sectors, where worst forms of child labor are known to occur, are not covered by any of the current legislation, and therefore there are no police assigned to address it, no investigations conducted or pending, and no training activities on how to handle the issue. There is hope that some positive actions may occur as a result of Lesotho's National Action Plan on the Elimination of Child Labour.

Forced labor/exploitive child labor in the production of goods

¶2. In Lesotho, child labor is limited and confined to the informal sector and does not occur in production of goods, but rather in provision of services such as commercial sex work, herding, domestic work and street vending. The preliminary report of the 2008 Integrated Labour Force Survey that was done by the Bureau of Statistics (BOS) Lesotho shows that only 3% of children aged 6-14 years were participating in economic activities. Two thirds of these children were engaged in subsistence farming, while the remaining one third was engaged in other economic activities, mainly in a private household. The report also shows that child labor is predominantly higher among male children (86.6%) than female children (13.4%). And this is true regardless of the type of economic activity considered. Other studies on child labor by UNICEF, the ILO, and the Ministry of Labor and Employment conclude that child labor in Lesotho occurs in four areas: child prostitution, herding, informal street vending, and as domestic workers. Child labor does not appear to be present in Lesotho's industrial enterprises.

Prevalence and Sectoral Distribution of Exploitive Child Labor

13. Exploitive child labor occurs mainly in the informal sector which is not covered by the Labour Code. In the informal sector, exploitive child labor occurs in domestic service, street vending, child prostitution, herding, car wash as well as trolley pushing for shoppers in the supermarkets.

14. Child prostitution: According to the Ministry of Labour, this form of child labor is illegal in Lesotho because the age of consent to sex is 18 therefore child prostitution is considered rape, but increasing in urban areas. Most girls who participate in commercial sex claim to do so by choice. However, high levels of poverty and the expanding number of children orphaned by HIV/AIDS leave children few other options for survival, particularly when they have family members to support.

15. Herd boys: Herding in rural areas of Lesotho is the most common form of child labor. Herding is considered a rite of passage for young Basotho men in the rural areas. As a result, many are expected to start herding at a very tender age. Despite its cultural roots, herding is technically regarded as a form of child labor and, in some cases, a worst form of child labor

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because it involves long hours of work and exposes children to extreme weather conditions in isolated areas.

16. Street vendors: Most children working as informal street vendors are exposed to inclement weather and other health hazards. Children work long hours without breaks, sometimes seven days a week. Some are pressured into participation in illegal activities such as burglary and petty theft.

17. Domestic work: Some young girls are employed as domestic workers, which involves long hours of labor, in some cases as many as sixteen hours a day.

18. Car wash and trolley pushing: Most children working as car washers and trolley pushers are self-employed young boys. These two forms of child labor are also induced by the high levels of poverty and the expanding number of children orphaned by HIV/AIDS.

19. Besides the 2008 Integrated Labour Force survey preliminary report, government did not collect or publish data on exploitive child labor during the period.

¶10. No new laws or regulations were enacted in regard to exploitive child labor over the past year. Lesotho ratified two ILO conventions in 2001. Convention 182: Concerning the prohibition and immediate action for the elimination of the worst forms of child labour; and Convention 138: Concerning minimum age for admission to employment. Lesotho's Labor Code Order of 1992 and its subsequent amendments are the principal laws governing the terms and conditions of employment in Lesotho. Sections 124-128 bar the employment of children and young persons. Child labor is additionally regulated by the Children's Protection Act of 1980 which provides for the protection of children in need of care such as abandoned children and orphans. The Sexual Offences Act of 2003, while not designed specifically for the protection of children, provides criminal penalties for those found guilty of sexual exploitation. Finally, there is the Deserted Wives and Children Order of 1971, which compels men who have abandoned their families to provide financial support to their former dependents.

¶11. The minimum age for employment in Lesotho is 15. This is the age at which a child enrolled in primary at age six will have completed secondary school. All new employees who claim to be 21 years old or under are legally required to present proof of their age. The Labor Code prohibits the employment of children or young persons in commercial or industrial work at night. Section 124 of the Labor Code prohibits the employment of children in all commercial and industrial firms other than private firms in which up to five members of the family are also employed. These provisions exclude work done by children over the age of thirteen in a school setting if the work has been approved by the Ministry of Education.

¶12. The Labor Code prohibits children and young persons from employment in any line of work injurious to health or morals, dangerous, or otherwise unsuitable. With the exception of domestic workers, employed persons under the age of sixteen are required to return to their place of residence each working night. Children and young persons are restricted from working in mines and quarries; taking any employment which might lead to physical, psychological or sexual abuse; working underwater or at dangerous heights; working in confined spaces; or working with dangerous machinery or heavy equipment.

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¶13. Any person who violates the minimum age provisions can be fined 300 Maluti (approximately \$40), sentenced to three months imprisonment, or both. A person who is convicted of employing children or young persons in a hazardous environment can be fined of 600 Maluti (approximately \$80), sentenced to six months imprisonment, or both. The Ministry of Labour and Employment is responsible for investigating labor code violations including the use of child labor. Inspections are conducted every week on a randomly selected sample of enterprises. The nine districts are assigned three inspectors each, while the capital is assigned seven inspectors to carry out general inspections. However, the Labor Code is limited in coverage and it does not encompass the informal sector, subsistence agriculture, or the self employed.

¶14. According to the Commissioner of Labour, child labor does not exist in industrial undertakings; many children engaged in worst forms of child labor are in sectors which fall outside the jurisdiction of the labor code.

¶15. The country's legal and regulatory framework was adequate for addressing exploitive child labor in the formal sector. However, in the informal sector, which is not regulated, child labor is still common and this is mostly due to the economic situation of the country (poverty and HIV/AIDS orphanhood).

Institutions and Mechanisms for Enforcement

¶16. The police, through the Child and Gender Protection Unit (CGPU) and the Ministry of Labour and Employment (MOLE) Inspectorate, are responsible for the enforcement of laws relating to hazardous child labor or forced child labor. However, there were no cases reported or investigated during the reporting period. The CGPU serves as a mechanism for making complaints about hazardous and forced child labor violations. The unit is responsible for child protection and investigating all cases involving children.

¶17. The CGPU and the MOLE Inspectorate are working on a memorandum on information sharing. There is a toll-free child helpline housed in the Lesotho branch of the non-governmental organization Save The Children. The helpline was launched in 2008 and provides children with access to 24-hour counseling, support and protection services. Complaints about hazardous and forced child labor violations can be reported thorough that line and they will be referred to the CGPU and MOLE Inspectorate.

¶18. There are no inspectors employed specifically to address child labor issues, and there were no child labor specific inspections. When the inspectors carry out inspections, they inspect all cases that violate the country's Labour Code, including child labor. During the reporting period, no child labor violations were found during the inspections.

Institutional Mechanisms for Effective Enforcement

¶19. Lesotho does not have agencies or personnel dedicated to enforcement of laws relating to child trafficking, commercial sexual exploitation of children (CSEC), or use of children in illicit activities, but the enforcement of these falls within the mandate of the CGPU since it is responsible for child protection and investigating offenses pertaining to children,

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among others. During the reporting period there was no government funding specifically provided to agencies responsible for investigating child trafficking, CSEC, or use of children in illicit activities.

¶20. Cases of child trafficking, CSEC, or use of children in illicit activities violations can be reported through the child care helpline. According to CGPU there were no reported cases of child trafficking, CSEC, or use of children in illicit activities. Government did not offer any training for investigators or others responsible for enforcement of child trafficking/CSEC/use of children in illicit activities, but the United States government (USG) in partnership with Women in Law in Southern Africa sponsored training for various stakeholders within the country such as the police, the national security service, government ministries, NGOs, and academic researchers. The country did not experience armed conflict during the reporting period or in the recent past involving the use of child soldiers.

Policies / Programs to Eliminate or Prevent Child Labor

¶21. Since child labor is not a big problem in Lesotho there are not specific programs or comprehensive policies that are designed specifically towards the elimination of child labor. In addition, the country's Poverty Reduction Strategy does not address child labor as a specific issue. However, Lesotho completed its national Action Plan on the Elimination of Child Labour (APEC) in 2008. This plan was conceived under the auspices of the ILO/US DOL program entitled "Towards the Elimination of Child Labor in Southern Africa" (TECL). The plan outlines activities intended to address the four forms of child labor (mentioned above), that are prevalent in Lesotho.

¶22. Government did not participate in any commissions or task forces regarding exploitive child labor and did not sign any bilateral, regional or international agreement to combat trafficking during the reporting period.

Continual Progress

¶23. Overall, Lesotho has made progress in raising awareness of the issue of child labor and ultimately the country has eradicated child labor in industrial establishments, including the textile factories. Remaining child labor issues result from cultural practices such as herding and severe poverty, which has led to increased numbers of sex workers and informal commercial street activities. While the Government appears to be committed to addressing the remaining child labor issues through the APEC, its resources remain limited, making implementation of the APEC as part of the second phase of the TECL program, more of a challenge. Also government did not make progress in regard to implementation of APEC. APEC was completed in 2008, but it has not been approved by Cabinet, therefore it cannot yet be implemented.

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